THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.35 of 2012
CNR No. ODHC010065282012

(In the matter of an application under Section 378 of the Criminal Procedure Code, 1973)

State of Odisha ……. ***Petitioner***

-Versus-

Narahari Pradhan & ors ……. ***Opposite Parties***

For the Petitioner : Mr. Sangram Das, SC (Vigilance)

For the Opposite Parties : None

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 17.09.2026 : Date of Judgment: 31.10.2026

S.S. Mishra, J. The present appeal is directed against the judgment of acquittal dated 26.08.2011 passed by the learned Special Judge (Vigilance), Sambalpur in T.R. Case No.24 of 1995, whereby Respondent No.2 Bira Bikram Swain was acquitted of the offence

punishable under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 read with Section 34 of the Indian Penal Code and Respondent No.3 Rajendra Pradhan was acquitted of the offence punishable under Section 109 IPC read with Section 13(2) and Section 13(1)(d) of the Prevention of Corruption Act under Section 248(1) Cr.P.C.

2. During the pendency of the trial before the Special Judge, the proceedings against the original accused Narahari Pradhan, the then Range Officer, Charmal, stood abated on account of his death.

3. Heard Mr. Sangram Das, learned Standing Counsel (Vigilance) for the petitioner.

4. The prosecution case, in brief, is that a Vigilance inquiry was conducted on 12.08.1988 by the then Inspector of Vigilance, Jharsuguda, Bipin Bihari Dash. During the inquiry it was allegedly discovered that the then Range Officer, Narahari Pradhan, and the then Revenue Inspector, Bira Bikram Swain, had abused their official positions to confer an unlawful pecuniary benefit upon Rajendra Pradhan in

connection with the removal of standing trees from land situated at village Jhankarpada under Charmal Police Station.

5. The record reveals that Rajendra Pradhan had submitted an application on 03.04.1987 before the Divisional Forest Officer, Rairakhol through the Tahasildar seeking permission to remove standing trees from his raiyati lands comprised in several plots under Khata No.21. Pursuant to the application, both the Forest Department and the Revenue Department directed their respective field officers, namely the Range Officer and the Revenue Inspector, to undertake a joint verification, demarcation of the lands and enumeration of the standing trees.

6. According to the prosecution, instead of confining themselves to the raiyati lands belonging to Rajendra Pradhan, the officials deliberately included 55 trees standing over adjoining Government forest lands under Khata Nos.31 and 33 within the enumeration prepared in respect of Rajendra Pradhan's holdings. It was alleged that such inclusion was made with the ulterior motive of enabling Rajendra Pradhan to cut and remove trees which did not belong to him, thereby securing an unlawful

pecuniary advantage estimated at approximately Rs.3,300/-, corresponding to the market value of those trees.

7. Acting upon the joint verification report, the Divisional Forest Officer initially permitted felling of the trees and directed submission of a conversion list. Subsequently, however, suspicion arose regarding the correctness of the demarcation. The Divisional Forest Officer therefore ordered the Assistant Conservator of Forests, along with the Revenue Supervisor, to conduct a fresh verification. During the subsequent inspection it was allegedly detected that trees from Government land had already been felled and that the earlier demarcation suffered from serious irregularities. The Range Officer was thereafter directed to seize the felled timber and institute forest cases. Instead of initiating proper prosecution, it was alleged that the Range Officer compounded the forest offences by realizing only Rs.500/- from each of the concerned persons, thereby extending undue favour to Rajendra Pradhan and his brothers.

8. On completion of the Vigilance inquiry, the Inspector, Vigilance submitted a written report before the Superintendent of Police, Vigilance, Sambalpur. Investigation culminated in submission of charge-

sheet against Narahari Pradhan, Bira Bikram Swain and Rajendra Pradhan for offences under the Prevention of Corruption Act and the Indian Penal Code. During the pendency of the proceedings, Narahari Pradhan died and the trial continued only against Bira Bikram Swain and Rajendra Pradhan.

9. In support of its case, the prosecution examined fourteen witnesses and relied upon documentary exhibits including the Revenue Miscellaneous Case records, joint verification reports, checking reports and sanction order for prosecution. The defence adopted a plea of complete denial and did not adduce any evidence.

10. Upon appreciation of evidence, the learned trial Court held that the prosecution had failed to establish beyond reasonable doubt that Bira Bikram Swain had participated in any illegal demarcation or had abused his official position to confer pecuniary advantage upon Rajendra Pradhan. The trial court found that none of the material witnesses could clearly identify Bira Bikram Swain as the Revenue Inspector who allegedly participated in the disputed joint verification. It further observed that the complainant had died before his evidence could be

recorded and the FIR alone could not substitute substantive evidence. The documentary evidence, including the joint verification reports and sanction order, was held insufficient to establish criminal misconduct in the absence of reliable oral testimony proving the accused's overt acts. Consequently, the court concluded that the essential ingredients of Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act and Section 34 IPC were not proved. Since the principal offence itself was found not established, the charge of abetment under Section 109 IPC against Rajendra Pradhan also failed. Accordingly, both surviving accused were acquitted under Section 248(1) Cr.P.C. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"**10)** Now, coming to the offence U/S.109 of the I.P.C. r/w Sec.13(2)/Sec.13(1)(d) of the Act, it is alleged by the prosecution that accused Rajendra Pradhan, during the year 1987, abated the offence of criminal misconduct by the other two accused persons, thereby obtained pecuniary advantage of Rs.3,300/- for himself. As indicated earlier, the complainant having not been examined in this case, the allegations made in the F.I.R. under Ext.10 has not been clearly made out against the other two accused persons with regard to commission of criminal misconduct by corrupt or illegal means in*

their capacity as public servants and thereby obtained pecuniary advantage of Rs.3,300/- for the present accused, namely: Rajendra Pradhan. That apart, in view of my foregoing discussions, the prosecution having failed to establish the main offence i.e. U/S.13(2) of the Act r/w Sec.13(1)(d) thereof and U/S.34, I.P.C. by the principal offenders; the question of abatement thereof by the present accused does not arise. Thus, the aforesaid offence of abatement against accused Rajendra Pradhan is not established by the prosecution.

11) *Having regard to my aforesaid discussions, I hold that the prosecution has utterly failed to establish its case against the accused persons under the aforesaid sections beyond all reasonable doubt and in the circumstance they are entitled for the benefit thereof.*

12) *In the result, the accused Bira Bikram Swain is found not guilty of the offence U/S.13(2) r/w Sec.13(1)(d) of the Act and Sec.34 of the I.P.C. and accused Rajendra Pradhan is found not guilty of the offence U/S.109, I.P.C./Sec.13(2) r/w Sec.13(1)(d) of the Act and both of them are acquitted thereof U/S.248(1) of the Cr.P.C. and be set at liberty forthwith."*

11. The learned counsel for the petitioner-State submitted that the learned trial court committed a manifest error in holding that the prosecution failed to establish the complicity of the accused persons despite there being cogent oral and documentary evidence on record. He contended that P.W.1, Ganeswar Tripathy, the then Tahasildar,

Rairakhol, categorically proved the demarcation report submitted by accused Bira Bikram Swain along with the sketch map marked as Ext.4, which bore the signature of the accused Revenue Inspector, and also proved the enumeration list prepared during the original verification. P.W.7, Saurilal Jaiswal, the then Assistant Conservator of Forests, deposed that during his preliminary inquiry conducted on 09.07.1987 he detected mistakes in the earlier demarcation and that a fresh joint re-demarcation was conducted on 12.08.1987 in the presence of the Revenue Supervisor, Revenue Inspector, Range Officer and other officials, culminating in preparation of the Joint Verification Report under Ext.6. Learned counsel further submitted that P.W.4, Panchanana Dehury, the Forester, fully corroborated the prosecution case by stating that during re-demarcation it was found that trees had been illegally felled from adjoining Government land, that such trees had previously been marked and numbered with coal tar, and that forest cases were instituted against Rajendra Pradhan and his brothers, who admitted their guilt and compounded the forest offences by paying compensation.

12. He further submitted that the evidence of P.W.3, Hari Shankar Pradhan, the brother of accused Rajendra Pradhan, substantially corroborated the prosecution version by admitting that during re-demarcation approximately sixty trees were found to have been felled unauthorisedly, including trees standing on Government land and on the land of Barnabas Khadia, for which compensation was paid after seizure of the excess trees. Learned counsel further contended that P.W.8, Subala Charan Sahu, proved both the Joint Verification Report (Ext.6) and the subsequent rechecking report (Ext.7), while P.Ws.9 and 10 also supported the re-demarcation conducted on 13.04.1991. Ext.6 clearly established that numerous felled trees marked by the previous Revenue Inspector and Range Officer were found outside the boundary of the raiyati plots of Rajendra Pradhan, whereas Ext.7 conclusively recorded the existence of illicitly felled stumps in adjacent Government plots as well as in the land of Barnabas Khadia in the presence of both accused officials and other departmental authorities. He, therefore, argued that these contemporaneous official documents, read together with the

consistent testimony of P.Ws.3, 4, 7, 8 and 10, unequivocally proved the illegal felling of trees from Government land and the involvement of the accused persons, and that the learned trial court completely misread the evidence and failed to appreciate Exts.6 and 7 in their proper perspective, thereby arriving at an erroneous finding of acquittal.

13. This Court has carefully examined the judgment passed by the learned trial Court, the reasons assigned therein, and the evidence adduced by both the prosecution and the defence during trial. This Court has also considered the grounds urged in the present appeal and heard the learned counsel appearing for the petitioner-State at length.

14. Before interfering with an order of acquittal, this Court is also required to bear in mind the well-settled principles governing an appeal against acquittal. In ***Tulasareddi @ Mudakappa & Anr. v. State of Karnataka & Ors.,*** reported in ***2026 INSC 67***, the Hon'ble Supreme Court has reiterated that where two reasonable conclusions

are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court. It has further been held that if the view taken by the trial Court is a possible view based on the evidence available on record, the appellate Court cannot overturn the order of acquittal merely because another view is also possible. Interference is warranted only when the judgment of acquittal suffers from patent perversity, is based on misreading or omission of material evidence, or where compelling and substantial reasons exist showing that the acquittal is clearly unreasonable. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, if the view taken is a possible view, the Appellate Court cannot overturn the order of acquittal on the ground that another view was also possible. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:*
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> *(a) whether the judgment of acquittal suffers from patent perversity;*

(b) whether the judgment is based on misreading/omission to consider the material evidence on record;
(c) an order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference.
(d) the appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;
(e) if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and
(f) the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

Equally, in ***Mallappa & Ors. v. State of Karnataka*****,** reported in ***2024 INSC 104***, the Hon'ble Supreme Court has held that the presumption of innocence, which every accused enjoys during trial, gets strengthened and concretized once the trial culminates in an order of acquittal. Consequently, while exercising appellate jurisdiction against an acquittal, a higher threshold is required to rebut such reinforced presumption. Unless the findings recorded by the trial Court are manifestly unsustainable or perverse, the appellate Court ought to exercise great restraint in upsetting the acquittal. It was held thus:-

> *"24. We may firstly discuss the position of law regarding the scope of intervention in a criminal appeal. For, that is the foundation of this challenge. It is the cardinal principle of criminal jurisprudence that there is a presumption of innocence in favour of the accused, unless proven guilty. The presumption continues at all stages of the trial and finally culminates into a fact when the case ends in acquittal. The presumption of innocence gets concretized when the case ends in acquittal. It is so because once the Trial Court, on appreciation of the evidence on record, finds that the accused was not guilty, the presumption gets strengthened and a higher threshold is expected to rebut the same in appeal."*

15. The appellate jurisdiction against an order of acquittal is, therefore, not intended to facilitate a fresh substitution of the opinion of the trial Court merely because a different view on the evidence is conceivable. As reiterated by the Hon'ble Supreme Court in ***Tulasareddi @ Mudakappa & Anr. v. State of Karnataka & Ors. (supra)***, the appellate Court must first satisfy itself that the judgment of acquittal is vitiated by patent perversity, misreading or non-consideration of material evidence, or is so unreasonable that no prudent person could have arrived at such a conclusion. Equally, as held in ***Mallappa & Ors. v. State of Karnataka (supra)***, the reinforced presumption of innocence

following an acquittal places a higher threshold upon the appellate Court before upsetting the findings recorded by the trial Court. Thus, unless the conclusions reached by the trial Court are wholly unsustainable on the evidence available on record, judicial restraint rather than substitution of views remains the governing principle in an appeal against acquittal.

Applying the aforesaid principles to the present case, this Court finds that the appreciation of evidence by the learned trial Court cannot be said to be either perverse or wholly unreasonable. Merely because another view may also be possible, the same cannot furnish a ground to reverse the acquittal in exercise of appellate jurisdiction.

16. At this distant point in time, the absence of compelling and substantial reasons warranting interference, reversal of the acquittal would itself occasion serious prejudice and would be a travesty of justice. At this belated stage, presumption of innocence prevailed in favour of the opposite party for more than 15 years, as they were acquitted by the Court below. Reversing such presumption at this stage would not only be harsh, but it would be against the cardinal principle of

reformatory criminal jurisprudence. This Court, therefore, finds no legal or factual justification to unsettle the well-reasoned judgment of acquittal passed by the learned trial Court.

17. In view of the aforementioned, the CRLLP stands dismissed.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
Dated the 31st October, 2026/Ashok

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